



February 23, 1999

Mr. Sim W. Goodall
Police Legal Advisor
City of Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR99-0525

Dear Mr. Goodall:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122222.

The Arlington Police Department (the “department”) received a request for information about a named police officer, including the officer’s personnel records and copies of all traffic citations issued by the officer. You assert that all of the records requested are excepted from disclosure under sections 552.103 and 552.108 of the Government Code. You also contend that certain information about the police officer is excepted from disclosure under section 552.117 and that the citations issued by the officer are excepted from disclosure under chapter 730 of the Transportation Code in conjunction with section 552.101 of the Government Code.

We first address your argument that the citations are protected from disclosure under chapter 730 in conjunction with section 552.101, which protects from disclosure records made confidential by law. We note initially that records filed with a court are generally a matter of public record and must be disclosed. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992) (documents filed with courts are generally considered public and must be released). Thus, the citations filed with a court are considered to be public records.

Section 730.004 of the Transportation Code governs the release of “personal information” about any person obtained in connection with a motor vehicle record by an agency, as defined by that chapter, which maintains or compiles motor vehicle records. *See* Transp. Code § 730.003(1) (defining “agency”). Without determining whether the department is

such an agency, we note that while section 730.003(6) of the Transportation Code includes in its definition of "personal information" an individual's name, address, and "driver identification number," this section expressly excludes from the definition any "information on . . . driving or equipment-related violations." The citations at issue are not confidential under chapter 730. We will address your other arguments against disclosure of the citations and remaining records.

To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin, 1997, no pet.), *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The governmental entity must meet both prongs of this test for information to be excepted under section 552.103(a).

You have shown that there is pending litigation and that most of the records at issue are related to the pending litigation. However, none of the traffic citations except for the one issued to Mr. Armendariz have been shown to be related to the pending litigation. The traffic citation issued to Mr. Armendariz may not be withheld from disclosure even though it is related to the pending litigation because it has been seen by the opposing party in the pending litigation. Once information has been seen by all parties to the litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Thus, the citations may not be withheld from disclosure under section 552.103. The other records at issue may be withheld from disclosure under section 552.103(a). We note that the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

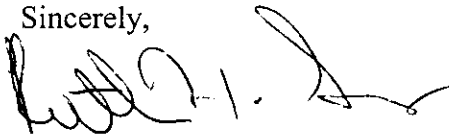
You also assert that the records are protected from disclosure under section 552.108 as active and pending records of a law enforcement agency. Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Although you have shown that there is a pending criminal case involving one of the citations, you have not shown how release of other citations would interfere with the prosecution of this one pending case. Thus, the traffic citations at issue may not be withheld from disclosure under either section 552.103(a) or 552.108.

However, as to the citations which have not been filed with a court, some information is protected under section 552.130 of the Government Code. We have marked a sample to show the type of information in the citation that must be withheld from disclosure under section 552.130.

It appears that the records for which you assert section 552.117 protection are protected from disclosure under section 552.103(a). However, we agree that the peace officer's home address, home telephone number, social security number, and information about family members is confidential under section 552.117 wherever this information is found in the submitted documents.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written over a horizontal line.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 122222

Enclosures: Submitted documents

cc: Mr. William Armendariz
6320 Fox Hunt Drive
Arlington, Texas 76001
(w/o enclosures)